IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	MAIL STOP _____
Sebastiano Scarampi et al.	Group Art Unit: 1612
Application No.: 10/887,466	Examiner: June Marie Rogers
Filed: July 7, 2004	Confirmation No.: 1062
For: GILSONITE DERIVED PHARMACEUTICAL DELIVERY COMPOSITIONS AND METHODS: NAIL APPLICATIONS	

(AUG 2 7 2008 — Patent and Trademark Office stamp)

DECLARATION UNDER 37 C.F.R. 1.132
OF GARY DAVID FISHER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. I, Gary David Fisher, submit this Declaration in support of related U.S. patent application nos. 10/887,466 and 10/751,276.

2. I am a citizen of the U.S.A., and reside in Vernal, UT. My education and professional history is outlined below:

Employment history:

1998 to Present: American Gilsonite Corporation, Bonanza, UT. Position: Engineer, Quality Control

1997 to 1998: Redcon, Stockton, UT, Bountiful, UT, Position Technical Writer and Data Engineer.

1980 to 1996: Hercules Inc. Magna, UT Process Engineer, Production Engineer, Quality Control Lab supervisor, Scientific Programmer.

Education:

Bachelor of Science in Chemical Engineering, University of Utah, Salt Lake City, UT, 1979

Master of Engineering in Chemical Engineering, University of Utah, Salt Lake City, UT, 1980.

Memberships:

SME, ASQ - Certified Quality Engineer

Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

3.   Since 1999, I have been responsible for Technical Services at American Gilsonite Corporation. During that time I have had oversight responsibility for manufacturing and quality control of Gilsonite oil. Gilsonite oil is a product of the American Gilsonite Environmental Resin Production operation. Gilsonite oil is extracted entirely and exclusively from Gilsonite, and contains no added ingredients. Gilsonite oil can be further fractionated, but still does not include any other ingredients. Gilsonite oil is quite distinct from Gilsonite as it contains only a portion of the molecular composition of Gilsonite. Likewise, it is distinct from the combination of Gilsonite and mineral oil.

4.   While Gilsonite oil contains some of the constituents of raw Gilsonite, it nonetheless is a distinct chemical composition. One of ordinary skill in the art would understand that Gilsonite oil would likewise have substantially distinct properties relative to raw Gilsonite. Most noticeably, they are distinct in physical form: Gilsonite is a shiny, black solid substance similar in appearance to the mineral obsidian; it is brittle and can be easily crushed into a dark brown powder. Gilsonite melts at temperatures in the range of 250°F to 400°F. Gilsonite is soluble in aliphatic, aromatic and chlorinated hydrocarbon solvents. It has limited solubility in most ketones, but is soluble in mixed aromatic solvents that contain a ketone component. Gilsonite is not soluble in water, alcohols, or acetone. Gilsonite oil, however, is a clear to brown liquid with a viscosity generally ranging from 2 to 100 centipoises at 77°F (slightly more viscous than water), and it is miscible in non-polar solvents, generally.

5.   In view of my responsibilities overseeing the production and processing of Gilsonite and Gilsonite oil, I am qualified to state that Gilsonite oil was commercially available to the public at large from American Gilsonite Corporation at least as early as January 2000. Attached are documents relating to an order of Gilsonite oil shipped and invoiced to an American Gilsonite customer in January 2000.

6.   I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8/22/08   By: _Gary David Fisher_
                        Gary David Fisher

| **Foreign** | Order Date: | 11-Jan-00 | Order #: | **X-1291** |

| Company Name: | ███████ | Sales Exec.: Bill Britton | Projected Ship Date: | 14-Jan-00 |
| Contact Name: | | | Promised Date: | 17-Jan-00 |

Address: ███████
Address:
PO Box #: ███████

Ship to Company: ███████
Contact:
Address: ███████
Address:
███████

Country: CANADA
Canada

Office Phone:
Fax #:
E-Mail:

Telephone:
Fax #:

P.O.#: Verbal/Bill   ☐ Collect ☑ PrePaid Freight   Free on Board: Acton

GILSONITE OIL

Unit of Measure: Pounds
Quantity: 40.00

Special Instructions: Ship UPS and include invoice with shipment . Ship 5 gallons of Gilsonite Oil UPS

Send Sample: Mailed   Type of Truck: LTL

☐ Certificate of Analysis   Container Number:

COA Fax #:   COA Fax 2 #:   ☐ Fax Copy to Customer

| **Specifications** | Type of Ore: | | Solubility: | |
| Viscosity: | Ash Content: | S.P.: | Moisture: |

Blending Scheme:

Sizing	4 Mesh:		35 Mesh:		100 Mesh:	
	10 Mesh:		50 Mesh:		150 Mesh:	
	30 Mesh:		65 Mesh:		200 Mesh:	

Pulverizing

Type of Surfactant: Mag. Stir Sec.:

Short Name: GILSONITE OIL

Packaging		**Bulk Bags**	
Type of Pallet:		Bags Returned:	
Type of Bag:		Bags New:	
Bag Printing:		Bag Stenciling:	

Specialized Pkg.   Single   Double   Triple   ☐ Code # on Tags

Code No:

Stretchwrap   ☐   ☐   ☐   ☐ Jungle Box
Shrinkwrap   ☐   ☐   ☐

Banding

Steel Banding: ☐ Plywood Top
Nylon Banding: ☐ Slip Sheet Top   ☐ Slip Sheet Bottom

☐ Special Placards   Note on Placard:

AMERICAN GILSONITE COMPANY

29950 S. Bonanza Hwy.
Bonanza, Utah 84008
Phone: (435) 789-1921
Fax: (435) 789-1921

Invoice No.	**885**
Invoice Date	11-Jan-00

Bill to

CANADA

Ship to

Canada

Please remit to:
AMERICAN GILSONITE COMPANY
c/o Wells Fargo Bank, P.O. Box 44638
San Francisco, CA 94144

To wire transfer funds: ABA#: 121000248
WELLS FARGO BANK   Acct. No. 4025-035635
55 Sansome St., San Francisco, CA 94104
For credit to: American Gilsonite Company

Date Printed	Ship Via		Sales Terms	Payment Terms	Date Due
09-Jul-08	LTL		Acton	Net 30 Days	10-Feb-00

Purchase Order Number	Order Date	Freight Terms		
Verbal/Bill	11-Jan-00	☑ *PrePaid Freight*	☐ *Collect*	

Quantity Ordered	Quantity Shipped	Unit of Measure	Description	Unit Price	Extended Price U.S. Dollars
40.00	40.00	Pounds	GILSONITE OIL X-1291	125	5,000.00

We certify that the above is true and correct
AMERICAN GILSONITE COMPANY

Total Due:	5,000.00

Reprinted on: *09-Jul-08*